February 6, 2002

Notice of Ex Parte Communication

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: IB Docket No. 95-91
SAT-STA-20010712-00063
SAT-STA-20010724-00064
MM Docket No. 99-325

Dear Ms. Salas:

Yesterday, Ann Bobeck, George DeVault, Trish Garber, Jack Goodman, Karen Kirsch, Peter Smyth, Alex Snipe, and the undersigned met with Chairman Michael Powell, Commissioner Kathleen Abernathy, Commissioner Michael Copps, Commissioner Kevin Martin, Catherine Bohigian, Rosalee Chiara, Steve Doyle, Susan Eid, Kenneth Ferree, Anna Gomez, Deborah Klein, Keith Larson, Paul Margie, Christopher Murphy, Rocky Patterson, Ronald Repasi, Roy Stewart, Brian Tramont and Susanna Zwerling to discuss various issues relating to implementation of permanent service rules for XM Radio, Inc. ("XM") and Sirius Satellite Radio Inc.'s ("Sirius") operation of terrestrial repeaters with their Satellite Digital Audio Radio Service ("SDARS") systems. We made the following points:

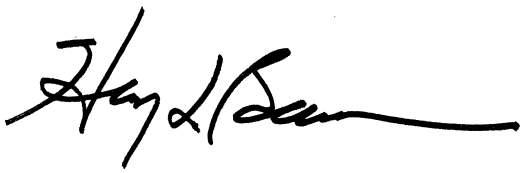
 We are concerned that the SDARS licensees' proposed service rules would allow local origination or insertion of locally-targeted programming. On its face, their current proposal appears to echo the SDARS licensees' pledge not to transmit locally-originated programming, but upon closer examination of their broad language, the SDARS proposed language *does not preclude locally originated material* and, as such, contravenes the Commission's tentative conclusion to prohibit the use of terrestrial repeaters to transmit locally originated programming. We urged the Commission to incorporate into the final service rules the express no-local origination clause as defined in the current Special Temporary Authorities ("STAs").

 All Incumbent Services should be protected from blanketing interference. Broadcasters are particularly concerned about the potential interference to Broadcast Auxiliary Service ("BAS") facilities operating in the 2 GHz bands adjacent to the SDARS repeaters. Further, the location and technical operating parameters of every current and future terrestrial repeater should be readily available to the public. A BAS licensee cannot determine a potential source of interference if their location is either unknown or difficult to obtain. SDARS terrestrial repeaters should be treated no differently than any other existing fixed service, whose technical information is Internet-accessible. Thus, we urge the Commission to make terrestrial repeater specifications available to the public via the FCC's Consolidated Database System.

 Finally, the recent introduction of satellite radio underscores the urgency of terrestrial broadcasters' digital conversion. In-Band-On-Channel ("IBOC") Digital Radio has the potential to deliver the high-quality digital service that today's consumers demand. Indeed, in authorizing the SDARS service in 1997, the Commission recognized that digital terrestrial radio service would both complement and compete with a national satellite radio service. We urged the Commission to expedite the current IBOC proceeding so that the rollout of digital terrestrial broadcast radio service would not be needlessly delayed.

A copy of our two-paged handout entitled "NAB Arguments Concerning SDARS Repeaters" is attached to this letter. Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,



Henry L. Baumann

Attachment
cc: Attendees

National Association of NAB BROADCASTERS®

NAB ARGUMENTS CONCERNING SDARS REPEATERS

XM Radio, Inc. ("XM") and Sirius Satellite Radio, Inc. ("Sirius") have been granted Special Temporary Authority ("STA") to deploy and operate a large number of terrestrial repeaters. The intent of both the SDARS applicants and the FCC is undisputed – terrestrial repeaters should be used only to reach areas where a satellite signal cannot reach. One of the main arguments that NAB has made against the use of terrestrial repeaters is that repeaters are simply a crutch for a technology that is not up to the task of providing the seamless, mobile coverage promised by its proponents and desired by the FCC, especially in cities where numerous "urban canyons" exist. XM and Sirius' repeaters networks, by their sheer numbers and power levels, appear to be designed to blanket metropolitan areas, not fill-in isolated gaps in coverage.

The STAs will expire on March 18, 2002, or upon implementation of permanent service rules, whichever occurs first. Recently, the FCC requested further comment on selected issues surrounding the permanent authorization of terrestrial repeater networks.

No Local Origination

- In authorizing its final service rules, the FCC must explicitly prohibit the insertion of locally-originated programming (including advertisements) on the SDARS terrestrial repeaters. The FCC should ensure that the *same programming* is being transmitted *at the same time* throughout the entire SDARS networks.

- The FCC can make clear that the repeater rule would not be violated by transmission delays inherent in time differences resulting from RF propagation delay differences, due to one transmitter being terrestrial (the repeater) and the other being a satellite, or other system design attributes such as time diversity, so long as all programming was transmitted from the SDARS uplink facility simultaneously to all transmitters, satellite or terrestrial.

- Thus, in lieu of the vague definition of authorized transmissions proposed by XM and Sirius, the FCC should instead adopt the same limiting language it imposed in granting the STAs:

  SDARS terrestrial repeaters may not originate any programming and are restricted to the simultaneous retransmission of the complete programming, and only that programming, transmitted by the satellite directly to the SDARS subscriber's receivers.

All Incumbent Services Should Be Protected From Blanketing Interference

- Because of the extraordinary transmit power proposed for SDARS repeaters, SDARS licensees should be required to bear the full financial responsibility to remedy *all* blanketing interference that low power repeaters and high power repeaters cause to all other services.

- NAB is particularly concerned about potential interference to Broadcast Auxiliary Service ("BAS") facilities operating in the 2 GHz bands adjacent to the SDARS repeaters. These facilities are used to support Electronic Newsgathering ("ENG") and are the means by which live, on-the-spot news coverage is relayed from a news scene back to a TV studio for broadcast. These 2 GHz BAS receivers are as susceptible to interference from SDARS repeaters – particularly high powered repeaters – as are WCS, and MDS/ ITFS facilities in the 2.3 GHz band. This is because, even though the Commission will require SDARS repeaters to suppress their out of band emissions, the suppressed signal level will still be substantially above the overload threshold low noise amplifiers in BAS receivers.

- The FCC should require SDARS repeater licensees to also engage in full frequency coordination with BAS licensees and to remedy all complaints of interference at no cost to the BAS licensees.

Terrestrial Repeaters Locations and Operating Parameters Must Be Part of the Public Record

- In order to accomplish such frequency coordination and remedy interference caused by the SDARS terrestrial repeaters, their location and operating parameters must be made part of the public record. If technical specifications and repeater locations are unknown, the injured licensee has no ability to ascertain which facility or facilities are causing interference. Thus, NAB strongly urges the Commission to require public disclosure of the location and operating parameters of each existing and future SDARS terrestrial repeater. We are unaware of any other fixed, high powered service that is permitted to operate without full disclosure of transmitter power and locations.